

## **REMARKS**

### Request for Reconsideration

Applicant has carefully considered the matters raised by Examiner in the outstanding Office Action, but remains of the position that patentable subject matter is present. Applicant respectfully requests reconsideration of Examiner's position based on the amendments to the claims, amendments to the specification and the following remarks.

### Claim Status and Comments

Claims 1-4 are pending. Claim 1 has been amended herein and will be discussed in more detail below.

### Present Invention

The present Invention is directed to the discovery of vibrational and noise problems associated with plastic wheels. It had been thought that the vibration and noise was caused by the flattening of the outer ring caused by the tightening of the belt. The inventors found that the vibration and noise was not caused by the flattening of the outer ring, but rather by the elevations on the running surface of the outer ring. These elevations are the result of excess plastic injected into the mold during fabrication of the wheel, see page 3, first paragraph, paragraph [0010] of the Published Application.

The Inventors further discovered that by having a non-uniform distribution of the elevations, the noise and the vibrations greatly decreased. The non-uniformity of the

elevations is predicated on the non-uniformity of the injection gates of the mold. (see page 3, second paragraph, paragraph [0011] of the Published Application).

In order to highlight these aspects of the present Invention, Claim 1 has been amended herein. Figures 1 and 3 illustrate the elevations 15, greatly exaggerated.

It is submitted that these amendments should be entered for two reasons. First, because it places the claims in condition for allowance. Second, the argument that is associated with the amendment was put forward in the Response filed September 3, 2008 and the Response filed March 20, 2009. Both Responses pointed to the non-uniformity of the injection gates. In the Office Action which responded to the September '08 Response, the non-uniform injection gate argument was deemed persuasive. In the Office Action which responded to the March '09 Response, the non-uniform injection gate argument was not deemed persuasive because the claims are to a product and not the method or apparatus (mold) to make the product. This new position by the Examiner necessitated the need to amend the claims. Respectfully, the amendment should be entered.

#### Claim Rejections – 35 U.S.C. § 102

Claims 1-4 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Yamashita, *et al.* (JP 10122339 A).

Claim 1 has been amended herein to recite that the running surface of the outer ring has elevations and that the elevations are spaced non-uniformly. As can be seen, the injection gates in Yamashita are uniformly positioned. Thus, any resulting elevation would also be uniformly distributed.

Thus, the claimed invention is not anticipated by Yamashita because Yamashita teaches non-uniform elevations and the claim recites non-uniform elevations.

Furthermore, it is submitted that the claimed invention is patentable over Yamashita because nothing in Yamashita would lead one of skill in the art to modify Yamashita to arrive at the present invention. As noted in the application, it was the inventors who discovered that the vibrational and noise problem was attributable to the elevations. It was also the inventors who arrived at the solution of spacing the elevations at non-uniform intervals.

It is submitted that the claims are neither anticipated by nor obvious over Yamashita.

#### Conclusion

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance and such action is respectfully requested. Should any extensions of time or fees be necessary in order to maintain this Application in pending condition, appropriate requests are hereby made and authorization is given to debit Account Number 02-2275.

Respectfully submitted,

LUCAS & MERCANTI, LLP

By: Donald C. Lucas  
Donald C. Lucas, Reg. No. 31,275  
Attorney for Applicant(s)  
475 Park Avenue South, 15<sup>th</sup> Floor  
New York, New York 10016  
Tel. (212) 661-8000 Fax (212) 661-8002

DCL/JRW/ns